

In the Matter of )  
 )  
Telephone Number Portability ) CC Docket No. 95-116  
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CenturyTel, Inc. (“CenturyTel”), on behalf of its incumbent companies, hereby offers the following Comments in response to the Federal Communications Commission’s (“Commission”) Public Notice seeking comment in the above-referenced proceeding.<sup>1</sup>

On November 14, 2003, BellSouth Corporation (“BellSouth”) filed a Petition for Declaratory Ruling and/or Waiver of the Commission’s rules regarding cost recovery of wireless local number portability (“LNP”) from end-users.<sup>2</sup> Specifically, BellSouth requests that the Commission issue a declaratory ruling that incumbent local exchange carriers (“ILECs”) are entitled to a reasonable opportunity to recover costs to implement wireless LNP through end-user charges. The Petition further requests that the Commission waive Section 52.33 of its rules to allow BellSouth to modify its current end-user number portability charge by extending the recovery period beyond the maximum five years and/or modifying the current rate. On

<sup>2</sup> *BellSouth Petition for Declaratory Ruling and/or Waiver*, filed in CC Docket No. 95-116 on Nov. 14, 2003 (“Petition”).

November 24, 2003, the Commission sought comment on the Petition.<sup>3</sup> CenturyTel fully supports BellSouth's Petition<sup>4</sup> and urges the Commission to grant all ILECs similar relief.

**II. THE COMMISSION SHOULD ISSUE A DECLARATORY RULING EXPLAINING HOW ILECS MAY RECOVER THE COSTS OF INTERMODAL LNP OVER A REASONABLE PERIOD.**

**A. ILECs are entitled to recover their wireless LNP implementation costs.**

The Commission has made it clear in past number portability orders that ILECs are entitled to recover number portability implementation costs. Specifically, in 1998, the Commission established a number portability end-user charge designed to ensure that ILECs have a reasonable opportunity to recover their initial costs of implementing number portability.<sup>5</sup> In the *Cost Classification Order*, the Common Carrier Bureau adopted a two-part test for ILECs to use in identifying carrier-specific costs that are directly related to the implementation and provision of number portability and therefore recoverable through the end-user number portability charge.<sup>6</sup> To recover LNP implementation costs, the ILEC must demonstrate that (1) it would not have incurred the costs "but for" the implementation of number portability; and (2) the costs were incurred "for the provision of" number portability.<sup>7</sup> But for the implementation of intermodal LNP, ILECs would not have to incur certain costs such as making modifications to operation support systems ("OSS") and employee-related and other costs, all of which are

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<sup>3</sup> Public Notice.

<sup>4</sup> CenturyTel's primary concern involves the recovery of implementation costs associated with the requirement that LECs port numbers to wireless carriers, also known as "intermodal LNP."

<sup>5</sup> *In the Matter of Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701 at 11775, 11777 ¶¶139, 144 (1998) ("*Third Report and Order*").

<sup>6</sup> *Telephone Number Portability Cost Classification Order*, Memorandum Opinion and Order, 13 FCC Rcd 24495, 24500 ¶10.

<sup>7</sup> *Id.*

directly related to the provision of number portability.<sup>8</sup> CenturyTel also anticipates that it will incur significant translation and testing costs associated with the implementation of intermodal LNP.

In the *Third Report and Order*, the Commission concluded that the costs of establishing number portability, as required by Section 251(e)(2) of the Communications Act of 1934, as amended (the “Act”),<sup>9</sup> include the “costs of enabling telecommunications users to keep their telephone numbers without degradation of service when they switch carriers.” For example, the Commission noted that there are costs associated with the creation of regional databases to support number portability; costs associated with the initial upgrading of the public switched network; and the ongoing costs of providing number portability, such as the costs involved in transferring a telephone number to another carrier and routing calls under the N-1 querying protocol.<sup>10</sup> Notably, the Commission did not in any way limit its discussion of number portability cost recovery to the context of wireline-to-wireline number portability. Indeed, implementing intermodal number portability requires that LECs incur new costs just as they incurred new costs to implement wireline number portability. CenturyTel urges the Commission to clarify and ensure that ILECs are able to fully recovery these costs.<sup>11</sup> To deny ILECs the opportunity for full recovery would violate the language of the *Third Report and Order* and Section 251(e)(2) of the Act.

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<sup>8</sup> See Petition at 12-18.

<sup>9</sup> 47 U.S.C. § 251(e)(2).

<sup>10</sup> *Third Report and Order*, at 11723-11726 ¶¶36, 38.

<sup>11</sup> The Commission should ensure that its ruling in this proceeding applies to any additional costs that the Commission deems recoverable in the future.

- B. In the absence of a clear mandate to port numbers to wireless carriers, ILECs were unable to impose a charge for wireless LNP prior to November 10, 2003.

Although it is undeniable that ILECs are entitled to recover their wireless LNP implementation costs, it was not until November 10, 2003, that the Commission clearly mandated LECs to port numbers to wireless carriers.<sup>12</sup> Prior to November 10, 2003, when the Commission issued its decision on wireline-to-wireless porting, the Commission and the North American Numbering Council (“NANC”) remained unable to resolve issues involving the implementation of intermodal number portability.<sup>13</sup> Furthermore, the Commission had extended the deadline for wireless LNP three times before declaring November 24, 2003 the deadline.<sup>14</sup>

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<sup>12</sup> *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284 (rel. Nov. 10, 2003) (“*Wireline-Wireless Porting Order*”). On November 18, 2003, CenturyTel, Inc., CenturyTel of Colorado, Inc., and the United States Telecom Association (“USTA”) filed with the Commission a stay of the *Wireline-Wireless Porting Order* pending judicial review, which the Commission denied. On November 21, 2003, CenturyTel, Inc., CenturyTel of Colorado, Inc., and USTA filed an appeal and request for stay of the *Wireline-Wireless Porting Order* in the U.S. Court of Appeals for the District of Columbia Circuit. On December 4, 2003, the D.C. Circuit denied the emergency appeal; however, the court still has before it the substantive appeal of the Commission’s *Wireline-Wireless Porting Order*. The appeal states that the rules adopted in the *Wireline-Wireless Porting Order* favor wireless carriers because there are technical hurdles to porting numbers from wireless carriers to wireline providers.

<sup>13</sup> *Local Number Portability Administration Working Group Report on Wireless Wireline Integration* (May 8, 1998) at 22.

<sup>14</sup> *In the Matter of Verizon Wireless’s Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, Memorandum Opinion and Order, 17 FCC Rcd 14972 (2002) (extending deadline until November 24, 2003); *Telephone Number Portability, Cellular Telecommunication and Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations*, Memorandum Opinion and Order, 14 FCC Rcd 3092 (1999) (extended the deadline until November 24, 2002); *Telephone Number Portability, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association*, Memorandum Opinion and Order, 13 FCC Rcd 16315, 16317, ¶7 (1998) (extended deadline from June 30, 1999, to March 31, 2000).

With the regulatory uncertainty surrounding intermodal LNP, it is likely that most ILECs had not -- until recently -- begun any implementation efforts, and therefore, could not recover from end-users the costs associated with intermodal LNP implementation. Even if ILECs had started to implement intermodal number portability prior to November 10, 2003, the Commission likely would not have allowed them to recover those costs because the Commission only allows ILECs to charge end-users for number portability when and where end-users are reasonably able to receive the benefits of the number portability charge.<sup>15</sup> Prior to November 24, 2003, end-users were not able to transfer their wireline telephone numbers to a wireless provider.

Finally, ILECs were limited in their ability to raise the LNP end-user charge to include costs incurred to implement intermodal number portability. As the Commission has stated in the past, an ILEC cannot raise the number portability end-user charge unless it can demonstrate that the charge was not reasonable based on the information available at the time it was initially set.<sup>16</sup> Of course, at the time that the ILECs initially established their number portability end user charges, not only was it unclear whether the Commission would require ILECs to port numbers to wireless carriers, but the costs for intermodal number portability were unknown. For these reasons, ILECs have not had to recover the costs associated with wireless LNP implementation.

C. The Commission should allow all ILECs to recover their wireless LNP implementation costs over a reasonable period.

Under the Commission's rules, ILECs can only impose a number portability charge for a maximum of five years. Specifically, Section 52.33 of the Commission's rules

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<sup>15</sup> See e.g., *Third Report and Order* at 11776 ¶¶142-43 (referring to provision of LNP in areas outside the top 100 MSAs).

<sup>16</sup> *Id.* at 11777, ¶144.

provides that “the monthly number-portability charge may take effect no earlier than February 1, 1999, on a date the incumbent local exchange carrier selects, and may end no later than five years after the incumbent local exchange carrier’s monthly number-portability charge takes effect.”<sup>17</sup> For ILECs that began charging end-users for wireline LNP in February 1999, the five-year recovery period will expire in February 2004.<sup>18</sup> Yet, the Commission only recently mandated intermodal number portability. As a result, many ILECs have not had a reasonable opportunity to recover their initial costs of implementing intermodal number portability.

In the Petition, BellSouth proposed four options under which ILECs could recover their wireless LNP costs. Although CenturyTel does not express a preference for one methodology at this time, CenturyTel urges the Commission to issue a declaratory ruling explaining to *all* ILECs how they may recover the costs of intermodal LNP over a reasonable period of time in the future.

### **III. CONCLUSION**

For the aforementioned reasons, CenturyTel supports BellSouth’s Petition. In particular, CenturyTel requests that the Commission issue a declaratory ruling that ILECs are entitled to recover their implementation costs associated with intermodal number portability and extend the current recovery period for a reasonable period.

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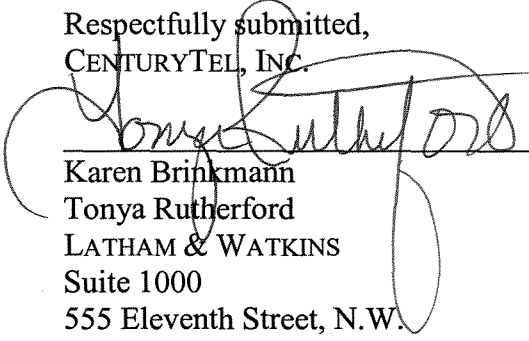
<sup>17</sup> 47 C.F.R. § 52.33(a)(1).

<sup>18</sup> For example, the five-year recovery period for CenturyTel of Alabama, LLC and CenturyTel of Missouri, LLC expires on March 9, 2004.

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Respectfully submitted,  
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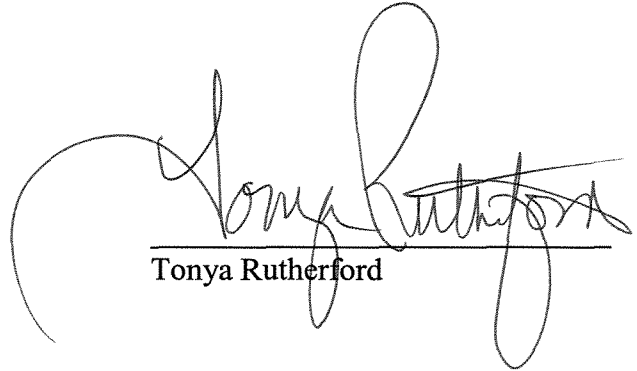
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments was sent by 1<sup>st</sup> Class U.S. mail, this 22<sup>nd</sup> day of December 2003, to:

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